REMARKS

I. Introduction

In response to the Office Action dated June 16, 2004, claims 2-13, 16-26 and 28-39 have been canceled, claims 1, 15 and 27 have been amended, and new claims 41-66 have been added. Claims 1, 15, 27 and 41-66 are in the application. Re-examination and re-consideration of the application, as amended, is requested.

II. Prior Art Rejections

A. The Office Action Rejections

In paragraph (4) of the Office Action, claims 1-13 and 15-39 were rejected under 35 U.S.C. §103(a) as being anticipated by Klug et al., U.S. Patent No. 5,996,007 (Klug). In paragraph (18) of the Office Action, claims 1-13 and 15-39 were rejected under 35 U.S.C. §103(a) as being unpatentable over Judson, U.S. Patent No. 5,572,643 (Judson) in view of Klug.

Applicants' attorney respectfully traverses these rejections.

B. The Applicants' Independent Claims

Independent claims 1, 15, and 27 are generally directed to alleviating problems associated with delays in accessing data on a network. Claim 1 is representative, and comprises the steps of:

(a) accessing data on a network from a client computer;

(b) identifying when a sufficient delay occurs during the accessing step; and

(c) presenting filler contents on the client computer during the identified sufficient delay.

C. The Klug Reference

Selected content such as product information and announcements is provided during waiting time of an Internet session. In one implementation, the process implemented by the waiting time message program of the invention involves monitoring (416) a user node to identify a web site access request, accessing (418) a previously stored message set, selecting (432) a message from the message set and displaying or playing back (434) the selected message. The message set and particular messages may be selected based on user information (e.g., demographic, psychographic, or product preference information), information regarding the expected waiting time or other information. Messages are thereby provided during waiting time that would otherwise be essentially

wasted from the perspective of an ordinary Internet user, e.g., during processing time associated with the exchange of information between Internet content providers and Internet content users.

D. The Judson Reference

A method of browsing the Worldwide Web of the Internet using an HTML-compliant client supporting a graphical user interface and a browser. The method begins as a web page is being displayed on the graphical user interface, the web page having at least one link to a hypertext document preferably located at a remote server. In response to the user clicking on the link, the link is activated by the browser to thereby request downloading of the hypertext document from the remote server to the graphical user interface of the client. While the client waits for a reply and/or as the hypertext document is being downloaded, the browser displays one or more different types of informational messages to the user. Such messages include, for example, advertisements, notices, messages, copyright information and the like.

E. The Applicants' Invention is Patentable Over the References

The Applicants' invention, as recited in independent claims 1, 15, and 27 is patentable over the references, because it contains limitations not taught by the references.

Specifically, the references do not teach or suggest the specific combination of limitations including "accessing data on a network from a client computer," "identifying when a sufficient delay occurs during the accessing step," and "presenting filler contents on the client computer during the identified sufficient delay."

The Office Action, however, asserts that the element of "identifying when a sufficient delay occurs during the accessing" is taught in Klug, at col. 2, line 63 - col. 3, line 16; col. 3, lines 40 - 59 and col. 7, line 34 - col. 8, line 39.

Applicants' attorney respectfully disagrees.

At the indicated locations, Klug merely describes the following:

> Klug: Col. 2, line 63 - Col. 3, line 16
>
> According to another aspect of the present invention, waiting time messages are terminated at the end of the waiting time so as to minimize Internet session intrusion. The associated process involves providing a waiting time message such as described above, monitoring communications relating to loading of a requested web site to identify a selected status relative to the loading, and terminating playback of the waiting time message based on the identified status. In one implementation, the monitored communications are protocol or other communications between a

browser and a server of the selected web site. Alternatively, operation of the browser may be monitored to obtain an indication relating to loading status. As a further alternative, operating system messages may be monitored relative to web site display status. Playback of the waiting time messages can be terminated, for example, upon receiving an indication that a web site page is ready for preliminary, intermediate or complete display. In this regard, the user can preferably set the message program so that messages terminate when loading reaches a selected level, e.g., 25%, 50%, or 100% complete.

Klug: Col. 3, lines 40-59

According to yet another aspect of the present invention, waiting time messages are selected, at least in part, on the basis of the anticipated duration of the waiting time. It will be appreciated that the length of the waiting time will vary depending upon, inter alia, the speed of the web site server, the amount of information to be loaded, the congestion of the Internet and the associated configuration of the path from the web site to the user node, the nature and bandwidth of the legs of the communication path between the server and the user node, the communications network selected, the speed of the user node processor, and the operating parameters of the browser or other services involved in server/user communications. Some or all of these factors may be taken into account in estimating waiting time. A waiting time message or messages are preferably selected based on anticipated waiting time to increase message effectiveness and user enjoyment. For example, a short message may be displayed or played where the waiting time is expected to be of short duration and a room or gallery of messages may be made available in the case of a longer waiting period.

Klug: Col. 7, line 34 – Col. 8, line 39

FIG. 4 is a flow chart illustrating operation of the waiting time message program. The program may be executed, for example, on the CPU of the user node and may be loaded (412) at log on or at the start of Internet session. As indicated in FIG. 4, user information may be obtained and stored (414) prior to or after loading of the program. As previously noted, the user information may be obtained from a separate web site or may be obtained by way of a questionnaire implemented by the program. The user information is preferably stored in computer memory at the user node (on the users computer, on another computer in the user's local area network, or otherwise stored for retrieval without accessing the Internet. Based on the user information, the program selects (413) a message set by employing algorithms for deriving demographic, psychographic, lifestyle or other information based on the user information and retrieves a corresponding message set. The message set is then compressed (415) for compact storage at the user node.

During an Internet session, the program monitors (416) the user node to identify a site access request. The site access request may be identified by reference to a header message of a protocol communication between the browser and the selected web site. Alternatively, the site access request may be identified by monitoring operating system messages or by identifying a URL entry via a keyboard. Upon identifying a site access request, the program accesses (418) the message set is stored, for example, on the user's hard drive or in cache. The program may select (432) a message from the message set based on user information, information

regarding the expected duration of the waiting time, both, or neither. If user information is to be utilized (420) the program retrieves (422) a user profile. The user profile is preferably based on user information voluntarily entered by the user as described above. Alternatively, user information may be derived, for example, based on the selected web site, a history of selected web sites during the current Internet session and/or previous sessions or based on other information obtained by monitoring the user node. In addition, the program may identify (424) user participation parameters entered by the user as described above.

If time information is to be utilized (426) the program determines (428) the approximate waiting time associated with a particular web site access request. The approximate waiting time depends on a number of factors including the speed of the server at the selected web site, the level of congestion on the Internet and any rerouting required by such congestion, the bandwidth of each leg of the route between the selected web site and the user node, the processing speed of the user node, the operation of the browser, and the size and number of files that are downloaded before display can begin. Ideally, as many of these factors as possible should be taken into account in determining the approximate waiting time. For example, the headers of protocol communications between the browser and the selected web site convey information regarding the quantity of information that is to be downloaded. Such data is commonly used to provide displays during loading such as "15% of 7K" or the like. This information can used to gain some information regarding the approximate waiting time, although it will be appreciated that actual waiting time may be longer than expected as multiple files may be linked by tags, i.e., a message embedded in one file may direct the browser to access another file at the selected web site. The program can use such file size information together with information regarding the speed of the user node processor, the operation of the browser and empirical data gained through experience to approximate the waiting time and identify (430) messages to be displayed or played during the waiting time. Additionally, information regarding the expected waiting time and regarding the fastest communication network at the current time may be obtained by "pinging" one or more communications networks, e.g., issuing network access requests to the network(s) and measuring the response time for receiving a responsive signal.

Klug does not teach or suggest the specific sequence of events recited in Applicants' claims of "accessing data on a network from a client computer," and then "identifying when a sufficient delay occurs during the accessing step," before "presenting filler contents on the client computer during the identified sufficient delay." More specifically, Klug does not identify when a sufficient delay occurs. Instead, Klug always displays a message whenever a site request is made by a user. The above portions of Klug merely state that the length of the waiting time messages are selected on the basis of the anticipated duration of the waiting time.

Thus, the reference does not anticipate Applicants' invention. Moreover, the various elements of Applicants' claimed invention together provide operational advantages over the references In addition, Applicants' invention solves problems not recognized by the references.

Applicants' attorney submits that independent claims 1, 15, and 27 are allowable over the references. Further, dependent claims 41-66 are submitted to be allowable over the references in the same manner, because they are dependent on independent claims 1, 15, and 27, respectively, and thus contain all the limitations of the independent claims. In addition, dependent claims 41-66 recite additional novel elements not shown by the references.

III. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicants' undersigned attorney.

Respectfully submitted,

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